

# Renewables Obligation: The 'enabling financial decisions' grace period

## Consultation on draft guidance

**Publication date:** 30 June 2014

**Response deadline:** 28 July 2014

**Team:** Renewable Electricity

**Tel:** 020 7901 7310

**Email:** [REDevelopment@ofgem.gov.uk](mailto:REDevelopment@ofgem.gov.uk)

### Overview:

This consultation document is for operators of generating stations in England, Wales and Scotland using offshore wind, advanced conversion technologies (ACT) (standard and advanced gasification and pyrolysis) and dedicated biomass with CHP. It is for those that may apply for the 'enabling financial decisions' grace period introduced by the RO Closure Order 2014 and wish provide feedback on the application process. This document explains our proposed application process which we welcome feedback on by the response deadline stated above.

## Context

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The Renewables Obligation (RO) and the Renewables Obligation (Scotland) (ROS) are designed to incentivise large-scale renewable electricity generation in the UK and help the UK meet its requirements for 15 per cent of energy to be sourced from renewable sources by 2020. The Gas and Electricity Markets Authority (the Authority) administers the schemes, and its day-to-day functions are performed by Ofgem.

The RO and ROS schemes are provided for under the Renewables Obligation Order 2009 (as amended) (RO Order) the Renewables Obligation (Scotland) Order 2009 (as amended) (ROS Order). The Orders place an obligation on licensed electricity suppliers in England, Wales and Scotland to source an increasing proportion of electricity from renewable sources. In this guidance, the RO Order and ROS Order are collectively referred to as the Orders but individually referenced where necessary. All references to the RO covers the RO and ROS schemes unless otherwise specified.

The RO and the ROS are scheduled to close to new capacity on 31 March 2017. In anticipation of this, the Department of Energy and Climate Change (DECC) and the Scottish Government are introducing grace periods for generating stations located in England, Wales and Scotland. If granted, these will give operators of generating stations the opportunity to apply for and gain accreditation under the RO after the closure date.

This consultation document relates to the 'enabling financial decisions' grace period only as it is the only grace period that must be applied for before 31 March 2017. The Renewables Obligation Closure Order 2014 (RO Closure Order) that will introduce these grace periods has been laid in Parliament. DECC are aiming for the RO Closure Order to come into force in August 2014. The remaining grace periods will be covered in separate guidance.

The Authority also administers the Northern Ireland Renewables Obligation (NIRO) in accordance with the Renewables Obligation (Northern Ireland) Order 2009 (as amended) on behalf of the Utility Regulator Northern Ireland (UREGNI). The Department of Enterprise, Trade and Investment (DETI) is expected to consult in summer 2014 on the arrangements for the closure of the NIRO. Once the policy has been finalised further guidance will be provided.

DECC recently consulted on changes to financial support for large scale solar PV generating stations. This is not covered by this document as the consultation has not yet closed. Further guidance will be published once the policy has been finalised.

This document should be read in conjunction with Chapter 3 of the Renewables Obligation: Guidance for Generators<sup>1</sup>, which provides full details on the process of seeking accreditation under the RO.

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<sup>1</sup> <https://www.ofgem.gov.uk/publications-and-updates/renewables-obligation-guidance-generators-1>

## Associated documents

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Readers should be aware of the following documents which support this publication:

### **Policy and Legislation**

- Government Response to the consultation on Renewables Obligation Grace Periods (<https://www.gov.uk/government/consultations/renewables-obligation-ro-grace-periods>)
- The Renewables Obligation Closure Order 2014 can be found at: [www.legislation.gov.uk](http://www.legislation.gov.uk)
- Renewables Obligation Order 2009, Renewables Obligation (Scotland) Order 2009 and Renewables Obligation Order (Northern Ireland) 2009, as well as their amendment orders for 2011, 2013 and 2014 can be found at: [www.legislation.gov.uk](http://www.legislation.gov.uk)

### **Guidance**

- Renewables Obligation: Guidance for Generators ([www.ofgem.gov.uk](http://www.ofgem.gov.uk))

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## Executive Summary

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A key aspect of Electricity Market Reform (EMR) is the transition from the Renewables Obligation (RO) Scheme, the current main support mechanism for large-scale renewable electricity generation, to Contracts for Difference (CfD), the new support mechanism for low-carbon electricity generation.

The RO and the ROS are scheduled to close to new capacity on 31 March 2017. In anticipation of this, the Department of Energy and Climate Change (DECC) is introducing grace periods for generating stations located in England, Wales and Scotland. If granted, these will give operators of generating stations the opportunity to apply for and gain accreditation under the RO after the closure date. The purpose of these grace periods is to avoid an investment hiatus during the transition period.

This consultation document sets out the proposed approach for administering the 'enabling financial decisions' grace period for generating stations in England, Wales and Scotland using: offshore wind, advanced conversion technologies (ACT) (standard and advanced gasification and pyrolysis) and dedicated biomass with CHP. We are consulting for four weeks, and would like your feedback on the proposed application process.

Please note that we are not consulting on the policy or the evidential requirements set out in the RO Closure Order. Ofgem is the administrator of the scheme. Comments or queries on the legislation itself or the policy intent should be directed to DECC.

The 'enabling financial decisions' grace period is scheduled to be introduced into the RO scheme when the RO Closure Order comes into force. DECC are aiming for the RO Closure Order to come into force in August 2014. This document sets out the information that needs to be submitted to Ofgem.

Other grace periods being introduced by the RO Closure Order will require administration from 1 April 2017 and applicants for these do not need to apply earlier. The approach to administering these grace periods will be published separately.

We are seeking responses to the questions set out in Appendix 1 of this document by 28 July 2014. If you have any comments please respond by using the details provided in Appendix 1. We anticipate that we will publish the final guidance document once the RO Closure Order comes into force.

# 1. Introduction

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1.1. The RO and ROS Orders detail the Authority's functions in respect of the RO schemes in England and Wales and in Scotland. A number of these functions are carried out via our IT system - the Renewables and CHP Register (the Register) and include:

- accrediting generating stations as being capable of generating electricity from eligible renewable energy sources
- issuing Renewable Obligation Certificates (ROCs) and Scottish Renewable Obligation Certificates (SROCs)
- establishing and maintaining a register of ROCs and SROCs
- revoking ROCs and SROCs where necessary
- monitoring compliance with the requirements of the Orders
- calculating annually the buy-out price resulting from the adjustments made to reflect changes in the RPI
- receiving buy-out payments and redistributing the buy-out fund
- receiving late payments and redistributing the late payment fund
- recovering the administration costs of the RO from the buy-out fund
- publishing an annual report on the operation of and compliance with the requirements of the Orders

1.2. We carry out the functions outlined in section 1.1 as efficiently and effectively as possible, according to the provisions of the Orders. We cannot act beyond the scope of the powers laid down in the Orders. For example, we have no remit over the operation or regulation of the ROC market itself. Amendments to the relevant legislation in respect of the RO are a matter for the Secretary of State, Scottish Ministers and the Secretary of State for Northern Ireland.

1.3. We administer the Northern Ireland Renewables Obligation (NIRO) in accordance with the NIRO Order on behalf of the Utility Regulator Northern Ireland (UREGNI) under an Agency Services Agreement. Under this agreement, the Authority is required to carry out the functions listed above in respect of the NIRO. However, the UREGNI continues to retain responsibility under the legislation for administering the NIRO.

## The RO Closure Order

The RO and the ROS are scheduled to close to new capacity on 31 March 2017. In anticipation of this closure, the Department of Energy and Climate Change (DECC) is introducing a number of grace periods. Operators that are successful in their grace

period application will have the opportunity to apply for and gain accreditation under the RO after this closure date. The grace periods are:

- 'Enabling financial decisions' grace period: a 12 or 18-month (dependent on technology) grace period for projects that can demonstrate evidence of substantial financial decisions and investments made before the Relevant Date<sup>2</sup>, where the project is scheduled to commission on or prior to 31 March 2017.
- 'Radar or grid connection delay' grace period: a 12-month grace period to address radar and grid connection delays, where the project was scheduled to commission on or prior to 31 March 2017.
- 'Signed investment contracts' grace period: a 12-month grace period for projects which have signed investment contracts, should these contracts fall away or be terminated under certain specific circumstances.
- 'Dedicated biomass cap' grace period: 18-month grace period for projects allocated a place within the 400MW dedicated biomass cap.
- 18-month grace period for certain Scottish offshore wind generating stations using test and demonstration wind turbines or floating wind turbines: 18 month grace period

The Renewables Obligation Closure Order 2014 will introduce these grace periods. DECC are aiming for this to be in force in August 2014.

## This Document

1.4. Unless apparent from the context, where "RO" is used, it denotes the Renewables Obligation (RO) scheme and the Renewables Obligation (Scotland) (ROS) scheme. In this guidance, the RO Order and ROS Order are collectively referred to as 'the Orders' but individually referenced where necessary. The Renewables Obligation Closure Order 2014 is referred to as the 'RO Closure Order' throughout this guidance.

1.5. 'Ofgem', 'us', 'our' and 'we' are used interchangeably when referring to the exercise of the Authority's powers and functions under the Orders.


1.6. The terms "generators" and "operators" are used interchangeably throughout the document.

## Responding to this consultation

1.7. If you would like to respond to this consultation please refer to the consultation questions set out in Appendix 1 and send your response by 28 July 2014 to:

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<sup>2</sup> The Relevant Date is: the later of 31 October and two months after the RO Closure Order is made. See Article 2, the Renewables Obligation Closure Order 2014 and Appendix 2.



Consultation on the administration of the RO 'Enabling financial decisions' grace period

- Renewable Electricity, Ofgem, 9 Millbank, SW1P 3GE, or
- [REDevelopment@ofgem.gov.uk](mailto:REDevelopment@ofgem.gov.uk)

1.8. Following the conclusion of the four week consultation period we will consider the responses that have been received and publish the final guidance document once the RO Closure Order comes into force.



## 2. 'Enabling Financial Decisions' grace period

### Chapter Summary

Sets out the technology types that may be eligible to apply for the 'enabling financial decisions' grace period and the eligibility requirements.

2.1. The RO Closure Order allows the operators of certain generating stations to apply for accreditation under the scheme after it has closed to new applications on 31 March 2017<sup>3</sup>. The 'enabling financial decisions' grace period is limited to generating stations using certain technologies, with differing lengths of grace period available for each technology. Table 1 outlines the eligible technologies and the length of grace period available:

**Table 1 - Eligible technologies and length of grace period**

| Eligible technology  | Length of grace period | Grace period application timeframe                                     | Accreditation application timeframe  |
|--|------------------------|--|--------------------------------------|
| <b>Offshore Wind</b>   | 12 months              | Apply between RO Closure Order coming into force and the Relevant Date | Apply on or before 31 March 2018     |
| <b>Advanced Conversion Technology (ACT) (standard and advanced gasification and pyrolysis)</b> | 12 months              | Apply between RO Closure Order coming into force and the Relevant Date | Apply on or before 31 March 2018     |
| <b>Dedicated Biomass with CHP</b>  | 18 months              | Apply between RO Closure Order coming into force and the Relevant Date | Apply on or before 30 September 2018 |

2.2. The definitions of these technologies are provided in Appendix 2. Operators must apply to Ofgem for this grace period by submitting a notice of intent, along with the required evidence. The window for applications will open once the RO Closure Order comes into force and close on the 'Relevant Date' which will be 31 October 2014, or two months after the Order comes into force (whichever is later).

2.3. The person submitting the notice of intent must do so on or before the 'Relevant Date' along with all of the necessary evidence. If, in the view of the Authority, the notice of intent is incomplete or does not include all the necessary

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<sup>3</sup> Article 11 and 12 of the Renewables Closure Order 2014.

evidence, it will not be processed. There is no provision in the RO Closure Order for Ofgem to accept a notice of intent or additional evidence after the Relevant Date.

2.4. Where we have received a notice of intent, with all of the relevant evidence, on or before the Relevant Date, it is still possible that we may request further clarification or additional information.

2.5. If we confirm that we are satisfied with the notice of intent, the operator of the generating station will have the opportunity to apply for and gain accreditation under the RO for a period of time after its closure date. This additional time does not guarantee that a station will be successful in its application to accredit under the RO. In order to apply for and gain accreditation under the RO, operators of offshore wind stations, or stations using ACT that satisfy the grace period criteria must have applied for accreditation on or before 31 March 2018. Operators of dedicated biomass with CHP generating stations must have applied for accreditation on or before 31 October 2018. The stations in question must be commissioned by these dates and have met all relevant eligibility requirements if accreditation is to be granted under the scheme.

## Notice of intent

2.6. The notice of intent must be in writing and contain the following information:

1. The name and address of the person submitting the notice<sup>4</sup>
2. Confirmation that the notice is being submitted in respect of Article 11 or 12 of the RO Closure Order 2014
3. Which of the three eligible technologies the notice is being submitted for, ie offshore wind, ACT or dedicated biomass with CHP
4. The location, or proposed location of the generating station
5. Confirmation that the person submitting the notice is also the person proposing to construct or operate the station, or arranging for the construction of it
6. Confirmation that the generating station is not yet commissioned (where "commissioned" is in the context of the relevant definition in the RO legislation).

2.7. The notice of intent can be submitted by email or in writing (see contact details in chapter 3). However, given the limited application window it is preferable that submissions are made by email. It must be accompanied by the specific pieces of evidence appropriate to the technology type it relates to, as listed in the next

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<sup>4</sup> In cases where the person submitting the notice of intent is a body corporate, a limited liability partnership, a partnership or an unincorporated association please use the organisation name and address, rather than the name of the individual making the application on behalf of the organisation.

section. An application checklist is provided in Appendix 3 to assist those submitting a notice of intent.

2.8. The evidence includes declarations that applicants will have to make and pieces of specific documentation. We have provided an example notice of intent and example declarations in appendix 4 and 5.

## The evidence applicants must provide

2.9. The following sections provide guidance on the evidence required for each of the eligible technologies. Applicants should also ensure that they have a full understanding of the RO Closure Order that sets out the legislative requirements for the specific pieces of evidence that must accompany the notice of intent.

2.10. Any declarations provided must be signed by an '*appropriate individual*'. This term is defined in the RO Closure Order and is also set out in appendix 2 of this document.

### Offshore Wind

2.11. The following evidence must accompany the notice of intent for an offshore wind generating station:

1. A grid works offer and letter

The person submitting the notice of intent must provide a copy of an offer from the relevant distribution or transmission network operator for the carrying out of grid works for the proposed generating station. The offer should make clear the location of the grid works and the connection capacity.

The person submitting the notice of intent must also provide a letter from the relevant network operator<sup>5</sup> which estimates or sets a date for completing the grid works which is not later than 31 March 2017.


The RO Closure Order does not specify that the offer to carry out grid works must have been made to the person submitting the notice of intent; therefore, the party to which the offer was made will not form part of our assessment for the purposes of this grace period.

We anticipate that it is unlikely that an offshore wind generating station will not require any grid works. However, if no grid works are required, a declaration stating this should be provided in place of the grid works offer and letter.

2. Planning permission

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<sup>5</sup> Article 13 The Renewables Obligation Closure Order 2014.



## Consultation on the administration of the RO 'Enabling financial decisions' grace period

The person submitting the notice of intent must provide a copy of the planning permission for the offshore generating station. The legislation defines 'planning permission' for an offshore generating station (see appendix 2), therefore one of the following documents should be submitted:

- consent under section 36 of the Electricity Act 1989(b), or
- consent under Article 39 of the Electricity (Northern Ireland) Order 1992(c), or
- development consent under the Planning Act 2008(d).

The RO Closure Order does not specify that the planning permission must have been issued to the person submitting the notice of intent; therefore, the party to which the planning permission was issued will not form part of our assessment for the purposes of this grace period.

We anticipate that it is unlikely that an offshore generating station will not require planning permission. However, if this is the case, a declaration stating this should be provided.

We acknowledge that other planning permissions will be required in respect of offshore wind generating stations, such as permissions for grid connection works. However, such permissions are not required under the RO for the purposes of this grace period.

### 3. Agreement for Lease of Seabed

The person submitting the notice of intent must demonstrate that they (or a person connected<sup>6</sup> to the person submitting the notice of intent) have entered into an agreement with the Crown Estate Commissioners for lease of the seabed where the station is, or is to be, situated.

If the agreement for the lease of the seabed is not between the Crown Estate Commissioner and the person submitting the notice of intent, evidence should also be submitted to demonstrate that a party to the agreement is a connected person within the meaning of section 1122 of the Corporation Tax Act 2010(a).

### 4. Declaration confirming future resources and expected commissioning

The person submitting the notice of intent must provide a declaration which states that, following confirmation by Ofgem that the notice of intent is acceptable, they will have access to sufficient resources to commission the station and that the station is expected to commission on or before 31 March 2017.

The declaration should be signed by an appropriate individual and made to best of that individual's knowledge and belief.

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<sup>6</sup> Within the meaning of section 1122 of the Corporation Tax Act 2010(a)

## ACT

2.12. The following evidence must accompany the notice of intent for an ACT generating station:

1. A grid works offer and letter

The person submitting the notice of intent must provide a copy of an offer from the relevant distribution or transmission network operator for the carrying out of grid works for the proposed generating station. The offer should make clear the location of the grid works and the connection capacity.

The person submitting the notice of intent must also provide a letter from the relevant network operator<sup>7</sup> which estimates or sets a date for completing the grid works which is not later than 31 March 2017.

The RO Closure Order does not specify that the offer to carry out grid works must have been made to the person submitting the notice of intent; therefore, the party to which the offer was made will not form part of our assessment for the purposes of this grace period.

We anticipate that it is unlikely that an ACT generating station will not require any grid works. However, if no grid works are required, a declaration stating this should be provided in place of the grid works offer and letter.

2. Planning permission

The person submitting the notice of intent must provide a current copy of the planning permission for the generating station. The legislation defines 'planning permission' (see appendix 2), therefore one of the following documents should be submitted:

- consent under section 36 of the Electricity Act 1989, or
- development consent under the Planning Act 2008, or
- planning permission under the Town and Country Planning Act 1990(e), or
- planning permission under the Town and Country Planning (Scotland) Act 1997(a)

We recognise that additional consents, easements and way leaves will be required for grid connections. It is our standard practice to regard the bounds of a generating station as stretching to the point of the connection with the distribution or transmission network. However, for the purposes of this grace period, we acknowledge that, at the connection offer-only stage, such permissions will not be in place. Additionally, projects may require off-site supporting infrastructure, which may require planning permission.

Given these points, we will only be seeking planning permission in respect of the site on which the electricity generating infrastructure is to be located. The RO Closure Order does not specify that the planning permission must have

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<sup>7</sup> Article 13 The Renewables Obligation Closure Order 2014.

been issued to the person submitting the notice of intent; therefore, the party to which the planning permission was issued will not form part of our assessment for the purposes of this grace period.

We anticipate that it is unlikely that an ACT generating station will not require planning permission. However, if this is the case, a declaration stating this should be provided.

3. Declaration of land use rights

The person submitting the notice of intent must provide a declaration which states that the person submitting the notice<sup>8</sup> either owns, or has entered into an agreement to lease, or has an option to purchase or to lease the land on which the station is, or is to be, situated.

The declaration should be signed by an appropriate individual and made to best of that individual's knowledge and belief.

4. Declaration confirming future resources and expected commissioning

The person submitting the notice of intent must provide a declaration which states that, following confirmation by Ofgem that the notice of intent is acceptable, they will have access to sufficient resources to commission the station and that the station is expected to commission on or before 31 March 2017.

The declaration should be signed by an appropriate individual and made to best of that individual's knowledge and belief.

## **Dedicated Biomass with CHP**

2.13. The following evidence must accompany the notice of intent for a dedicated biomass with CHP station:

1. A Grid Works Offer and letter

The person submitting the notice of intent must provide a copy of an offer from the relevant distribution or transmission network operator for the carrying out of grid works for the proposed generating station. The offer should make clear the location of the grid works and the connection capacity.

The person submitting the notice of intent must also provide a letter from the relevant network operator<sup>9</sup> which estimates or sets a date for completing the grid works which is not later than 31 March 2017.

The RO Closure Order does not specify that the offer to carry out grid works must have been made to the person submitting the notice of intent; therefore, the party to which the offer was made will not form part of our assessment for the purposes of this grace period.

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<sup>8</sup> or a person connected to that person within the meaning of section 1122 of the Corporation Tax Act 2010(a)

<sup>9</sup> Article 13 The Renewables Obligation Closure Order 2014.

We anticipate that it is unlikely that a dedicated biomass generating station will not require any grid works. However, if no grid works are required, a declaration stating this should be provided in place of the grid works offer and letter.

## 2. Planning Permission

The person submitting the notice of intent must provide a copy of the planning permission for the generating station. The legislation defines 'planning permission' (see appendix 2), therefore one of the following documents should be submitted:

- consent under section 36 of the Electricity Act 1989, or
- development consent under the Planning Act 2008, or
- planning permission under the Town and Country Planning Act 1990(e), or
- planning permission under the Town and Country Planning (Scotland) Act 1997(a)

We recognise that additional consents, easements and way leaves will be required for grid connections. It is our standard practice to regard the bounds of a generating station as stretching to the point of the connection with the distribution or transmission network. However, for the purposes of this grace period, we acknowledge that, at the connection offer-only stage, such permissions will not be in place. Additionally, projects may require off-site supporting infrastructure, which may require planning permission.

Given these points, we will only be seeking planning permission in respect of the site on which the electricity generating infrastructure is to be located. The RO Closure Order does not specify that the planning permission must have been issued to the person submitting the notice of intent; therefore, the party to which the planning permission was issued will not form part of our assessment for the purposes of this grace period.

We anticipate that it is unlikely that a dedicated biomass generating station will not require planning permission. However, if this is the case, a declaration stating this should be provided.

## 3. Declaration of land use rights


The person submitting the notice of intent must provide a declaration which states that the person submitting the notice<sup>10</sup> either owns, or has entered into an agreement to lease, or has an option to purchase or to lease the land on which the station is, or is to be, situated.

The declaration should be signed by an appropriate individual and made to best of that individual's knowledge and belief.

## 4. Declaration confirming future resources and expected commissioning

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<sup>10</sup> or a person connected to that person within the meaning of section 1122 of the Corporation Tax Act 2010(a)



## Consultation on the administration of the RO 'Enabling financial decisions' grace period

The person submitting the notice of intent must provide a declaration which states that, following confirmation by Ofgem that the notice of intent is acceptable, they will have access to sufficient resources to commission the station and that the station is expected to commission on or before 31 March 2017.

The declaration should be signed by an appropriate individual and made to best of that individual's knowledge and belief.

### 5. CHPQA Certification

For a dedicated biomass generating station to qualify for the 'enabling financial decisions' grace period, it must be certified under the CHPQA 3 or CHPQA 5 at any time on or before the Relevant Date. Therefore, a CHPQA certificate for the generating station issued before the Relevant Date should also be provided.

## Accreditation under the RO

2.14. Any generating stations for which we receive a complete notice of intent on or before the Relevant Date may apply for and be granted accreditation until 31 March 2018 (for offshore wind stations and those using ACT), and until 30 October 2018 (for dedicated biomass with CHP stations).

2.15. In order to be issued with ROCs, a generating station must be accredited under the RO as being capable of generating electricity from eligible renewable sources. Additionally, the generating station must meet all other RO eligibility criteria. The Orders<sup>11</sup> set out how we should grant and withdraw accreditation. It also details when we may attach and amend conditions to any preliminary accreditation or accreditation. For more information on the scheme's eligibility requirements please refer to Ofgem's Renewables Obligation: Guidance for Generators.

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<sup>11</sup> Article 58 of the Orders.



## 3. Submitting a notice of intent

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### Chapter Summary

Explains how to apply for the 'enabling financial decisions' grace period, how we propose to process the applications we receive and how we will provide confirmation.

3.1. For Ofgem to consider a notice of intent, it must be submitted between the date the Renewables Obligation Closure Order comes into force and the Relevant Date. The notice of intent and evidence should be submitted to Ofgem at [renewable@ofgem.gov.uk](mailto:renewable@ofgem.gov.uk). It should be clearly titled as a 'Notice of Intent' in the subject line of the email or letter and should be accompanied by the evidence required under the RO Closure Order as detailed in chapter 2.

3.2. When emailing a notice of intent, please include a list of the attached documents within the body of the email so it is clear what evidence you are submitting. The Ofgem system will automatically reject emails larger than 20MB. If the person submitting the notice of intent has any concerns about the size of the files that they are attempting to submit, or receives a notification that they have been rejected, please contact us. We have a file sharing service which can be used if the evidence being submitted is too large to be emailed.

3.3. Upon receipt of a notice of intent and the supporting evidence, we will send an email to confirm that it has been received on or before the Relevant Date. If the Authority is satisfied that the notice and evidence meet the statutory requirements, we will, in accordance with the statutory requirement, provide confirmation of this too, including the date on which the notice was received.

### Processing the notice of intent

3.4. The notice of intent and the supporting evidence will be reviewed against the relevant statutory criteria. This review will normally be undertaken within 10 working days of receipt. If we have any queries on the notice or the evidence submitted, we will look to contact you by email within the review period. Where queries are raised, the onus is on the applicant to respond in a timely and complete manner, if the grace period application is to be determined within the specified timeframe. A grace period will only be awarded where we are satisfied that all statutory requirements have been met.

3.5. Where we receive an accurate and complete notice of intent, accompanied by all of the required evidence and have no further queries, we expect to process it and provide confirmation that we are satisfied the criteria have been met within 10 working days. In order to assist this process, it is our expectation that applicants will have reviewed and understood the relevant requirements of the RO Closure Order and our guidance. In addition, it is our expectation that the grace period application would have been thoroughly checked prior to its submission to ensure it is accurate and complete. An application checklist is provided in Appendix 3 to assist those submitting a notice of intent.

### **Generating Stations that have been Awarded a Grace Period**

3.6. If we have confirmed that we are satisfied with a notice of intent, the operators of offshore wind generating stations and stations using ACT have until 31 March 2018 to apply for accreditation under the RO. The operators of dedicated biomass with CHP stations will have until 30 September 2018 to apply for accreditation. Please refer to the Renewables Obligation: Guidance for Generators for further information on the eligibility requirements and process of applying for accreditation under the RO. Although we cannot revoke confirmation of a notice of intent, you should retain a copy of this confirmation from Ofgem for your own records, and in the event that you apply for accreditation after 31 March 2017.

3.7. We regularly audit accredited generating stations to guard against fraud and error. If a generating station applied under the 'enabling financial decisions' grace period and has subsequently been accredited, the evidence and declarations submitted with the notice of intent will also form part of a future audit. We have the power to withdraw accreditation, revoke or permanently withhold ROCs in certain circumstances, including where evidence is later found to be false. More information is provided in Chapter 3 of the Renewables Obligation: Guidance for Generators.

## Appendices

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## Appendix 1 - Consultation Response and Questions

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1.1. Ofgem would like to hear your views on any of the proposed processes in this document.

1.2. We would especially welcome responses to the specific questions which we have set out below.

1.3. Please send us your responses by 28 July 2014. They should be sent to:

Renewable Electricity Development Team  
9 Millbank  
London, SW1P 3GE.  
0207 901 7310  
[REDevelopment@ofgem.gov.uk](mailto:REDevelopment@ofgem.gov.uk)

1.4. Unless marked confidential, all responses will be published in Ofgem's library and on our website, [www.ofgem.gov.uk](http://www.ofgem.gov.uk). You can ask for your response to be kept confidential, and we will respect this, (subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004).

1.5. If you want your response to be kept confidential, please clearly mark the document/s to that effect and include your reasons for requesting confidentiality. It would be helpful if you could submit your responses electronically. Please put any confidential material in the appendices to your responses.

Next steps: Having considered the responses to this consultation, Ofgem intends to publish the final 'Enabling Financial Decisions Grace Period Guidance' after the RO Closure Order has been made.

**Question 1:** Do you have any problems or concerns relating to the proposed processes for administering the 'enabling financial decisions' grace period as set out in this document?

**Question 2:** Are there any aspects of this guidance that could be made clearer or improved? If so, please provide specific comments including section references.

**Question 3:** Are there any omissions in this guidance? If so, please provide comments.

## Appendix 2 - Glossary

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| <b>Term</b>            | <b>Definition</b>   |
|------------------------|---|
| <b>A</b>               |   |
| Advanced Gasification  | Electricity generated from a gaseous fuel which is produced from waste or biomass by means of gasification, and has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 4 megajoules per metre cubed.  |
| Advanced Pyrolysis     | Electricity generated from a liquid or gaseous fuel which is produced from waste or biomass by means of pyrolysis, and (a) in the case of a gaseous fuel, has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 4 megajoules per metre cubed, and (b) in the case of a liquid fuel, has a gross calorific value when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the generating station of at least 10 megajoules per kilogram.   |
| Appropriate Individual | "appropriate individual", in relation to a notice, means—<br>(a) where the person submitting the notice is a body corporate (other than a limited liability partnership), an individual who is a director, the treasurer, secretary or chief executive of that body,<br>(b) where the person submitting the notice is a limited liability partnership, an individual who is a designated member of that partnership, within the meaning given in section 8 of the Limited Liability Partnerships Act 2000( ),<br>(c) where the person submitting the notice is a partnership (other than a limited liability partnership), an individual who is a partner in that partnership,<br>(d) where the person submitting the notice is an unincorporated association (other than a partnership), an individual who is a member of the governing body of that association,<br>(e) where the person submitting the notice is an individual, that individual; |
| <b>C</b>               |   |
| CHPQA 3                | "CHPQA 3" means the Combined Heat and Power Quality Assurance Standard, Issue 3, published by the Department for Environment, Food and Rural Affairs in January 2009;   |
| CHPQA 5                | "CHPQA 5" means the Combined Heat and Power   |

Quality Assurance Standard, Issue 5, published by the Department of Energy and Climate Change in November 2013(c);

**G**

Grid Works

"grid works", in relation to a generating station, means—  
(a) the construction of a connection between the station and a transmission or distribution system for the purpose of enabling electricity to be conveyed from the station to that system, or  
(b) the carrying out of modifications to a connection between the station and a transmission or distribution system for the purpose of enabling an increase in the amount of electricity that can be conveyed over that connection from the station to that system;

**N**

Network Operator

"network operator" means a distribution exemption holder, distribution licence holder or a transmission licence holder;

**O**

Offshore generating station

"offshore generating station" means a generating station which generates electricity from wind and which—  
(a) has its wind turbines situated wholly in offshore waters, and  
(b) is not connected to dry land by means of a permanent structure which provides access to land above the mean low water mark;

Offshore Wind

Electricity generated from wind by a generating station that is offshore; Offshore in relation to a generating station which generates electricity from wind, means a generating station which has its wind turbines situated wholly in offshore waters, and is not connected to dry land by means of a permanent structure which provides access to land above the mean low water mark.

**P**

Planning Permission

"planning permission" means—  
(a) in the case of an offshore generating station—  
(i) consent under section 36 of the Electricity Act 1989(b),  
(ii) consent under Article 39 of the Electricity (Northern Ireland) Order 1992(c), or  
(iii) development consent under the Planning Act 2008(d),  
(b) in all other cases—  
(i) consent under section 36 of the Electricity Act 1989,  
(ii) development consent under the Planning Act 2008,  
(iii) planning permission under the Town and Country Planning Act 1990(e), or

(iv) planning permission under the Town and Country  
Planning (Scotland) Act 1997(a).

**R**

Relevant Date

"relevant date" means the later of—  
(a) 31st October 2014, and  
(b) the date falling two months after the day on which  
this Order comes into force;

**S**

Standard Gasification

Electricity generated from a gaseous fuel which is  
produced from waste or biomass by means of  
gasification, and has a gross calorific value when  
measured at 25 degrees Celsius and 0.1 megapascals  
at the inlet to the generating station which is at least  
2 megajoules per metre cubed but is less than 4  
megajoules per metre cubed.

Standard Pyrolysis

Electricity generated from a gaseous fuel which is  
produced from waste or biomass by means of  
pyrolysis, and has a gross calorific value when  
measured at 25 degrees Celsius and 0.1 megapascals  
at the inlet to the generating station which is at least  
2 megajoules per metre cubed but is less than 4  
megajoules per metre cubed.

## Appendix 3 – Application Checklist

This appendix provides a checklist of the information that should be submitted for each type of generating station.

**Table 2 - Application Checklist**

|                  | To be submitted to Ofgem   | Type of Generating Station |     |                            |
|------------------|--|----------------------------|-----|----------------------------|
|                  |  | Offshore Wind              | ACT | Dedicated Biomass with CHP |
| Notice of Intent | The name and address of the person submitting the notice <sup>12</sup>   | ✓                          | ✓   | ✓                          |
|                  | Confirmation that notice is submitted in respect of Article 11 or 12 of the RO Closure Order 2014  | ✓                          | ✓   | ✓                          |
|                  | Technology of proposed generating station  | ✓                          | ✓   | ✓                          |
|                  | The location, or proposed location of the generating station   | ✓                          | ✓   | ✓                          |
|                  | Confirmation that the person submitting the notice is also the person proposing to construct or operate the station, or arranging for the construction of it | ✓                          | ✓   | ✓                          |
|                  | Confirmation that the generating station is not yet commissioned   | ✓                          | ✓   | ✓                          |
| Evidence         | Grid Connection Offer  | ✓                          | ✓   | ✓                          |
|                  | Letter from the relevant network operator  | ✓                          | ✓   | ✓                          |
|                  | Planning Permission  | ✓                          | ✓   | ✓                          |
|                  | Agreement for lease of the seabed  | ✓                          | ✗   | ✗                          |
|                  | Declaration of land use rights   | ✗                          | ✓   | ✓                          |
|                  | CHPQA Certification  | ✗                          | ✗   | ✓                          |
|                  | Declaration confirming future resource and expected commissioning date of the generating station   | ✓                          | ✓   | ✓                          |

<sup>12</sup> In cases where the person submitting the notice of intent is a body corporate, a limited liability partnership, a partnership or an unincorporated association please use the organisation name and address, rather than the name of the individual making the application on behalf of the organisation.





## Appendix 4 – Example Notice of Intent

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### **Renewables Obligation: Enabling Financial Decision Grace Period Notice of Intent**

*A notice of intent, as set out under Article 13 of the Renewables Obligation Closure Order 2014 (ROCO), must be submitted to Ofgem in order to access the 'enabling financial decision' grace period. Set out below is an example notice of intent that can be printed, completed, signed by an 'appropriate individual' and sent to Ofgem.*

#### **Notice of Intent (example)**

1. The Proposed Generating Station

- a) Name of proposed generating station.....
- b) The location of the proposed generating station.....  
.....
- c) The technology at the proposed generating station is (please delete as appropriate): Offshore wind/Advanced conversion technology/ Dedicated biomass with CHP
- d) I confirm that the generating station is not commissioned.

2. The person submitting the Notice of Intent<sup>13</sup>

- a) Name of person submitting the notice.....
- b) Address of person submitting the notice  
.....  
.....  
.....
- c) I confirm the person submitting the notice of intent is (please delete as appropriate):

\_\_\_\_\_

<sup>13</sup> In cases where the person submitting the notice of intent is a body corporate, a limited liability partnership, a partnership or an unincorporated association please use the organisation name and address, rather than the name of the individual making the application on behalf of the organisation.



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- a body corporate (other than a limited liability partnership)
- a limited liability partnership
- a partnership
- an unincorporated association
- an individual

d) I confirm that the person submitting the notice of intent is (please delete as appropriate):

- The person who proposes to construct or operate the generating station;
- The person that is arranging for the construction of the generating station.

I confirm that I am an 'appropriate individual', in relation to the notice of intent, for the generating station stated in this declaration and I am submitting it for the purposes of Article 11 or 12 of ROCO.

**Signed** .....

**Full Name** .....

**Job Title** .....

**Date** .....

*Please note that the terms 'notice of intent' and 'appropriate individual' have the same meaning as in Article 13 of the ROCO. This declaration is to be submitted alongside the documents set out in Article 13 of the ROCO. You should therefore read the relevant articles of ROCO and take your own independent legal advice, to ensure that the proposed generating station which is subject to this declaration qualifies under the ROCO, before making this declaration.*



## Appendix 5 - Example Declarations

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### **Renewables Obligation: 'Enabling Financial Decision' grace period**

*A declaration confirming land use rights, as set out under Article 13 of the Renewables Obligation Closure Order 2014 (ROCO), must be submitted with a Notice of Intent. Set out below is an example declaration form that can be printed, signed by an 'appropriate individual' and sent to Ofgem.*

#### **Declaration of land use rights (example)**

Proposed Generating Station Name

.....  
I confirm that, to the best of my knowledge and belief, the person submitting the notice of intent or a person connected to the person submitting the notice of intent within the meaning of section 1122 of the Corporation Tax Act 2010(a) (please delete as appropriate):

- Owns the land on which the generating station is, or is to be, situated; or
- Has entered into an agreement to lease the land on which the generating station is or is to be, situated; or
- Has an option to purchase or to lease the land on which the generating station is, or is to be, situated.

*I confirm that I am an 'appropriate individual', in relation to the notice of intent, for the generating station stated in this declaration.*

**Signed** .....

**Full Name** .....

**Job Title** .....

**Date** .....

*Please note that the terms 'Notice of Intent' and 'appropriate individual' have the same meaning as in Article 13 of the ROCO.*

*This declaration is to be submitted alongside the Notice of Intent and the documents set out in Article 13 of the ROCO. You should therefore read the relevant articles of ROCO and take your own independent legal advice, to ensure that the proposed generating station which is subject to this declaration qualifies under the ROCO, before making this declaration.*



### **Renewables Obligation: Enabling Financial Decision Grace period declaration**

*A declaration confirming future resources and expected commissioning date, as set out under Article 13 of the Renewables Obligation Closure Order 2014 (ROCO), must be submitted with a Notice of Intent. Set out below is an example declaration form that can be printed, signed by an 'appropriate individual' and sent to Ofgem.*

#### **Declaration of future resource and expected commissioning (example)**

Proposed Generating Station Name

.....

I confirm that, to the best of my knowledge and belief, following receipt of confirmation that the Authority is satisfied with the attached Notice of Intent for the purposes of the ROCO:

- The person submitting the notice will have access to sufficient resources to commission the station; and
- The station is expected to commission on or before 31 March 2017.

I confirm that I am an 'appropriate individual', in relation to the notice of intent, for the generating station stated in this declaration.

**Signed** .....


**Full Name** .....

**Job Title** .....

**Date** .....

*Please note that the terms 'Notice of Intent' and 'appropriate individual' have the same meaning as in Article 13 of the ROCO.*

*This declaration is to be submitted alongside the Notice of Intent and the documents set out in Article 13 of the ROCO. You should therefore read the relevant articles of ROCO and take your own independent legal advice, to ensure that the proposed*



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grace period

*generating station which is subject to this declaration qualifies under the ROCO,  
before making this declaration.*

## Appendix 6 - Feedback Questionnaire

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1.1. We are keen to consider any comments or complaints about how this consultation has been conducted. We are keen to get your views on the following:

1. Do you have any comments about the process adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand? Or could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments.

1.2. Please send your comments to:

**Andrew MacFaul**  
Consultation Co-ordinator  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
andrew.macfaul@ofgem.gov.uk